

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1251 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GUJARAT ELECTRICITY BOARD

Versus

NARENDRA J LIYA

Appearance:

SERVED for Petitioner

SERVED for Respondent No. 1, 2

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 02/02/98

ORAL JUDGEMENT

This is a Revision Application filed under Section 115 CPC against the judgment dated 31.7.1989 passed by the asstt.Judge, Jamnagar whereby the learned Judge allowed the Appeal and set aside the order passed by the civil Judge (JD), Jamkhambhalia below Exh.5 in RCS No. 56/87 to 69/87. The Appellate Court restrained the defendant-petitioners from terminating the services of

the plaintiffs till the final decision of the Civil Suit. The plaintiff filed a Civil Suit against the defendant-Gujarat Electricity Board seeking declaration as well as permanent injunction not to terminate their services. According to the plaintiffs, they were appointed for a period of 29 days, subsequently, the same type of order for a period of 29 days were given. They were continued in service in the office of the defendant and there is no break in their service. It was contended that their services cannot be terminated as they have already completed more than 90 days in the service with the defendant and as such they are entitled to be considered as permanent employees. The plaintiffs also filed application Exh.5 seeking interim injunction restraining the defendant from terminating their services. Defendant contested application Exh.5 by filing counter-affidavit. It was contended that the plaintiffs were given job purely on temporary basis as daily wages labour. They were paid remuneration on day-to-day work. Thus, when the plaintiffs were taken either on temporary basis of daily workcharge basis, they were only purely on daily wage basis and no right is vested on them.

2. The trial court considering the rival contentions, rejected Application exh.5. However, the appeal was allowed by the learned Asstt.Judge, Jamnagar and the injunction as prayed for was granted.

3. This Court, while making Rule on 1.2.1990, passed the following order:

"Rule. Ad-interim relief in terms of para 9(b).

However, the petitioner shall act only in accordance with the award passed by the Industrial Tribunal, Ahmedabad in Reference (IT) No.878/84 and according to the policy laid down in various circulars not to terminate the services of those who have completed particular days of services on Nominal Muster Roll (N.M.R.)."

Both the Courts below have committed apparent error in not considering the fact that it was an industrial dispute which ought not to have been entertained and the party ought to have been relegated to remedy under Industrial Disputes Act. Since the interim relief is operating for last more than seven years, it may be appropriate if this Revision Application is disposed of in terms of interim order of this Court dated 1.2.1990.

Rule made absolute in terms of the interim order dated
1.2.1990.

2.2.1998 [N N Mathur, J
msp.